

Notice of Allowability

Application No.

10/633,348

Examiner

Sean E. Conley

Applicant(s)

SELIG ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/6/2006.
2. ☒ The allowed claim(s) is/are 1-3,5,7-15 and 18.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 6, 2006 has been entered.

Allowable Subject Matter

Claims 1-3, 5, 7-15, and 18 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art, alone or in combination, fails to teach or fairly suggest a container for holding items to be microbially deactivated comprising a tray for holding the items, a lid operable to cover the tray, and an interactive seal means on the tray and lid forming a convoluted path with a fluid passage extending through a side wall and communicating with the convoluted path to direct a microbial deactivation fluid into said path.

The closest prior art to the applicant's claimed invention is Spence (U.S. Patent No. 4,783,321 A) and Spence (U.S. Patent No. 4,919,888 A).

Spence ('321) discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (60) having a bottom wall and a continuous side wall extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid continuous first seal element (82, 84, 86) formed along said free edge of said side wall, said first seal element having two, spaced-apart, rail-like projections (82, 84) that extend continuously around said free edge of the side wall (see figure 13); and a lid (24) attachable to said tray, said lid (24) having a continuous rigid second seal element (23) thereon, said second seal element being dimensioned to matingly engage said first seal element on said tray such that the rail-like projection (23) on said lid (24) is disposed between and spaced apart from said two rail-like projections (82, 84) on said tray (60) when said lid is attached to said tray (see figure 13), wherein a continuous U-shaped channel-forming a convoluted path is defined between said first seal element and said second seal element (see figures 2, 3, 13; col. 4 line 40 to col. 5, line 2; col. 8, lines 4-60).

However, Spence ('321) fails to teach an interactive seal means on the tray and lid forming a convoluted path with a fluid passage extending through a side wall of the tray and communicating with the convoluted path to direct a microbial deactivation fluid into said path.

Spence ('888) discloses a container (10) for holding items to be microbially deactivated in a reprocessor, comprised of: a generally cup-shaped tray (base (12))

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having a bottom wall (18) and a continuous side wall (composed of multiple walls (20, 21 and 22)) extending to one side from the periphery of said bottom wall, said side wall having a free edge, said bottom wall and said side wall defining a cavity for receiving instruments and items to be microbially deactivated; a rigid continuous first seal element (outwardly projecting rim (25)) formed along said free edge of said side wall having two, spaced-apart, rail-like projections; and a lid (14) attachable to said tray, said lid (14) having a rigid continuous second seal element (gasket lip (42)) thereon, said second seal element being dimensioned to matingly engage said first seal element (rim (25)) on said tray such that the rail-like projection (42) on said lid (14) is disposed between and spaced apart from said two rail-like projections of rim (25) on said tray when said lid is attached to said tray (see figure 3), wherein a continuous U-shaped channel forming a convoluted path is defined between said first seal element and said second seal element (see figures 2, 3; col. 3, line 50 to col. 4, line 30).

However, Spence ('888) also fails to teach an interactive seal means on the tray and lid forming a convoluted path with a fluid passage extending through a side wall of the tray and communicating with the convoluted path to direct a microbial deactivation fluid into said path.

Therefore, claims 1-3, 5, 7-15, and 18 are allowed because the prior art, alone or in combination, fails to teach or fairly suggest all of the limitations of the applicant's claimed invention, specifically an interactive seal means on the tray and lid forming a convoluted path with a fluid passage extending through a side wall of the tray and

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communicating with the convoluted path to direct a microbial deactivation fluid into said path.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean E. Conley whose telephone number is 571-272-8414. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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K.E.C.

October 23, 2006



KRISANNE JASTRZAB
PRIMARY EXAMINER